

## **TENTATIVE RULINGS for CIVIL LAW and MOTION**

### **July 9, 2009**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942

#### **TENTATIVE RULING**

**Case: JPMorgan Chase Bank, National Assoc. v. Reyniel**  
**Case No. CV UD 09-1439**

**Hearing Date: July 9, 2009 Department Fifteen 9:00 a.m.**

Plaintiff's unopposed motion for summary judgment is **DENIED WITHOUT PREJUDICE**. There is no proof of service showing service of a copy of the motion at bar on any of the defendants. (Code Civ. Proc., § 1170.7.) The declarations of Oleg Khrystov and Hector Lopez do not contain original signatures. California Rules of Court, rule 2.305(d) relates to documents filed by facsimile. The motion at bar was not filed by facsimile. Plaintiff must file the original signature pages for the above declarations.

If no hearing is requested, this tentative ruling is effective immediately. Defendant is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

#### **TENTATIVE RULING**

**Case: Merino et al. v. Beazer Homes Holding Corp. et al.**  
**Case No. CV CV 08-3415**

**Hearing Date: July 9, 2009 Department Fifteen 9:00 a.m.**

The Court is inclined to sever this action into two separate cases, ordering Plaintiffs to dismiss Defendant Ryder West Sac, LLC and file a new action against it. The Court does not see any nexus between the causes of action against defendant Beazer Homes Holding Corporation and Ryder West Sac, LLC. The Court finds that severance of these actions against these defendants will promote judicial economy and the ends of justice.

Plaintiffs object to the severance of these matters since, defendant failed to cite any legal authority authorizing the Court to order Plaintiffs to dismiss defendant Ryder West Sac, LLC and file a separate action against it. Accordingly, the Court **ORDERS** the parties to submit supplemental briefing, not to exceed ten pages, **citing legal authority** that prohibits the Court from making such an order. The supplemental briefs shall be filed by July 20, 2009. The further hearing on this matter is set for July 27 2009 at 9:00 a.m. in Department Fifteen.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**Case:** **Nguyen v. Regents of the Univ. of California**  
**Case No. CV CV 08-1332**

**Hearing Date:** **July 9, 2009** **Department Fifteen** **9:00 a.m.**

The defendants' requests for judicial notice are **GRANTED**, except as to Exhibits K and S to the request for judicial notice filed on April 23, 2009. (Evid. Code, § 452, subds. (c) and (d).)

Plaintiff had raised all of the allegations in her complaint "at the University level" before she filed the instant lawsuit. (Plaintiff's additional brief filed on June 4, 2009, page 2, lines 21-26.) The University decided all allegations Plaintiff had raised "at the University level." (Plaintiff's additional brief filed on June 4, 2009, page 2, lines 26-28.) Final decisions were issued as a result of the proceedings before the University. (Exhibits A, B and C of Defendants' supplemental request for judicial notice.) Plaintiff does not contend that she did not receive notice of the University's final decisions.

The parties' dispute centers on whether the proceedings before the University were "quasi-judicial" in nature such that the plaintiff is required to challenge the final decisions through mandamus or else be bound by the findings in such decisions. The Court finds that the procedure afforded the plaintiff is quasi-judicial in nature and the plaintiff is bound by the findings made from the proceedings before the University, unless such are challenged by means of a mandate action. Accordingly, the defendants' motion for judgment on the pleadings is **GRANTED WITHOUT LEAVE TO AMEND**.

Counsel are directed to appear. No request for hearing is required.

**TENTATIVE RULING**

**Case:** **The People of the State of California v. \$1,100.00 U.S. Currency**  
**Case No. CV PT 05-383**

**Hearing date:** **July 9, 2009** **Department Fifteen** **9:00 a.m.**

Petitioner's unopposed motion for summary judgment is **DENIED WITHOUT PREJUDICE**. (Code Civ. Proc., § 437c, subd. (b)(1).) Petitioner did not file a declaration or request for judicial notice in support of the motion establishing the foundation for the evidence set

forth in the separate statement of undisputed material facts. (Evid. Code, §§ 452, 453, & 455.)

Petitioner is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437, subdivision (g) and California Rules of Court, rule 3.1312.

**TENTATIVE RULING**

**Case:**                    **Wheeler v. Taylor Morrison of California, LLC**  
                              **Case No. CV CV 08-49**

**Hearing Date:**       **July 9, 2009**                    **Department Fifteen**                    **9:00 a.m.**

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Stucco Works, Inc.'s unopposed motion for good faith settlement determination is **GRANTED**.  
(Code Civ. Proc., § 877.6.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.